

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID WAYNE ELMORE,

Plaintiff,

No. CIV S-04-2657 GEB EFB P

vs.

TOM L. CAREY, et al.,

Defendants.

ORDER

Plaintiff is a state prisoner proceeding pro se and *in forma pauperis* with a civil rights action pursuant to 42 U.S.C. § 1983. On September 18, 2006, plaintiff filed a notice of voluntary dismissal of his complaint against defendant Franklin. Under Fed. R. Civ. P. 41(a), that filing operates as a dismissal of plaintiff's claims as to defendant Franklin and that dismissal is hereby confirmed.

Accordingly, IT IS HEREBY ORDERED that plaintiff's claims as to defendant Franklin are dismissed.

DATED: December 4, 2006.,


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE